

**REMARKS**

Reconsideration of the Office Action of May 3, 2006 is respectfully requested.

Enclosed herewith is a one (1) month extension of time with requisite fee.

To summarize the claim changes made in this amendment, new claims 27 to 30 have been added. No new matter is considered to be presented by these new claims in view of the support contained in the originally filed application. Also, it is respectfully submitted that the amended claims are in full conformance with 35 U.S.C. §112, first and second paragraphs. The excess claim fee associated with the additional dependent claims is provided with this response.

New dependent Claim 27 represents a portion of previously presented Claim 14; new dependent Claim 28 finds support, for example, on page 2, lines 18-21, new Claim 29 finds support in the paragraph bridging pages 5 and 6, for example, and new Claim 30 includes the same subject matter with Claim 17, also supported, for example, on page 5, lines 11-16.

**Claim Rejections under 35 U.S.C. §103**

Claims 2, 4-6, 13-23 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kudoh (5,243,663) in view of Harada, et al. (6,536,257).

Claims 7-9 and 25 were also rejected under 35 U.S.C. §103(a) as being unpatentable over Kudoh (5,243,663) in view of Harada, et al. (6,536,257) and further view of Shimomura (6,477,260).

Claim 26 was rejected under 35 U.S.C. §103(a) as being unpatentable over Kudoh (5,243,663) in view of Harada, et al. (6,536,257) and further view of Khattak (4,899,296).

Applicants respectfully submit that cited references (either alone or taken in combination) fail to disclose all of the subject matter of claims. For example, the fail-safe implementation device of the claimed invention, the feature of independent claim 13.

As to the fail-safe implementation device in the claimed invention, the Examiner relies on the following disclosure in Harada as a source for altering the deficiencies in the base reference to Kudoh (which Kudoh in view of Harada combination is applied in each of the noted obviousness rejections above). That is, Harada is said to disclose:

For example, the warning system decision unit 42 controls the motor vehicle which incorporates the motor vehicle monitoring apparatus 10 as follows: When the following motor vehicle in an adjacent lane approaches the motor vehicle which incorporates the motor vehicle monitoring apparatus 10 within a predetermined distance, if the driver of the motor vehicle which incorporates the motor vehicle monitoring apparatus 10 does not notice the following motor vehicle and tries to turn the steering wheel to change lanes, then the warning decision unit 42 issues a control signal to control a steering system of the motor vehicle to prevent the steering wheel from being turned. (Column 8, line 59 - column 9, line 3)

In this situation, it is clearly understood that the monitoring apparatus 10 of Harada recognizes the approaching following motor vehicle in an adjacent lane as a dangerous object, and the warning decision unit 42 sends the signal to the steering system to control the steering for avoiding a crash with the approaching following motor vehicle. Thus, the disclosure above in Harada is just the regular operation of the vehicle monitoring system to automatically control the vehicle even if that control would go against the driver's intention.

On the other hand, the Applicants' monitoring system relates to the fail-safe device for use in the case where the monitoring system judges that a luminance state

condition has the potential for a luminance based monitoring system failure (e.g. the luminance characteristics are such that the image recognition device may not properly interrupt the situation and thus should not be utilized to activate the vehicle state alteration device used to implement a vehicle control change). In other words, when the determination section determines a potential luminance-based monitoring system failure, the monitoring system enters into the fail-safe mode. In this fail-safe mode, the vehicle state alteration device (e.g., a warning system, a vehicle slow down control change or other image recognition based vehicle control change) is prevented from activation.

As described above, the monitoring system in Harada only discloses the regular operation; in other words, an automatic vehicle control that is based on image recognition in an image recognition based monitoring system. Thus, in Harada, neither disclosure nor suggestion is found regarding a fail safe implementation device which precludes an image recognition based monitoring system from acting to prevent the regular operation of the automatic vehicle control through placement of the image recognition based monitoring system into a fail safe mode when there is determined that a luminance condition state is potentially not suitable for implementing automatic vehicle control (which is a feature found in the independent Claim 13 of Applicants' present invention).

Accordingly, Applicants respectfully submit that independent Claim 13 and its dependant claims are patentably distinguishable over Kudoh in view of Harada, et al.

Also, in the Office Action "Official Notice" is taken relative to features found in dependent Claims 15, 16, 18 and 23. Based on the belief that there is lacking in the art the additional features in these dependent claims due to the basic deficiency in the Kudoh in view of Harada combination, the assertion of Official Notice is traversed in

each instance. Also, in accordance with MPEP, 2144.03, applicants request the Examiner provide evidence in support of the "Official Notice" taken.

**Allowable Subject Matter**

Applicants note with appreciation the Examiner's confirmation of allowable subject matter relative to claims 3, 10-12 and 24. Applicants respectfully submit that new dependent Claims 27 to 30 are also allowable.

In view of the above remarks, Applicants submit that all rejections raised in the Office Action are overcome such that the application is in condition for allowance. Applicant looks forward to confirmation of the same at the Examiner's earliest convenience. If any fees are required to facilitate entry and consideration of this Amendment, the fees may be charged to Deposit Account 02-4300; Order No. 032405R084.

Respectfully submitted,  
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